

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

SHAWN DEVONTA SMITH,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	1:16cv935-MHT
)	(WO)
JOHN CROWE, et al.,)	
)	
Respondents.)	

ORDER

This cause is now before the court on the petitioner's notice of appeal (doc. no. 15), which the court is treating as a motion to proceed on appeal in forma pauperis.

28 U.S.C. § 1915(a)(3) provides that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." In making this determination as to good faith, a court must use an objective standard, such as whether the appeal is "frivolous," *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or "has no substantive merit." *United States v. Bottoson*, 644 F.2d 1174, 1176

(5th Cir. Unit B May 15, 1981) (per curiam); *see also* *Rudolph v. Allen*, 666 F.2d 519, 520 (11th Cir. 1982) (per curiam). Applying this standard, this court finds no legal or factual basis for the appeal because petitioner prematurely filed the appeal before a judgment had been entered, and has shown no meritorious grounds for an appeal; accordingly, the court finds the appeal to be frivolous and not taken in good faith. *See, e.g., Rudolph v. Allen, supra; Brown v. Pena*, 441 F. Supp. 1382 (S.D. Fla. 1977), *aff'd without opinion*, 589 F.2d 1113 (5th Cir. 1979).

Accordingly, it is ORDERED that the petitioner's motion to proceed on appeal in forma pauperis is denied; and that the appeal in this cause is certified, pursuant to 28 U.S.C. § 1915(a)(3), as not taken in good faith.

DONE, this the 25th day of February, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE